

**REMARKS**

Claims 1-5 and 10-15 have been canceled. New claims 16-19 have been added to replace the previously presented apparatus claim 5. Claims 6-9 and 16-19 are now pending in the application. Reconsideration is requested.

Claim 1, 2 and 6-15 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants respectfully traverse.

The Examiner has conceded that the claimed subject matter produces a “useful, concrete and tangible result.” It is the Examiner’s position, however, that merely providing a useful, concrete and tangible result, without a machine, is insufficient for statutory subject matter to be present. It is the Examiner’s assertion that if the claims are not tied to a technological art, then the claims do not present statutory subject matter.

As recently decided by the Board of Patent Appeals and Interferences in *Ex parte Carl A. Lundgren*, there is no separate test (i.e., the “technical arts” test) for determining whether claims are directed to statutory subject matter. In view of the foregoing, Applicants respectfully submit that no grounds exist for supporting the Examiner’s Section 101 rejection of claims 1, 2 and 6-15. Withdrawal of the Section 101 rejection is requested.

Since no art rejection has been asserted against claims 6-9, Applicants respectfully submit that claims 6-9 are now in condition for favorable action and allowance.

New claim 16 has been added which comprises allowable method claim 6 converted into an apparatus claim. Given the apparatus format of new claim 16, there should be no Section 101 issues as a machine is recited which produces a useful, concrete and tangible result. Additionally, this system/apparatus claim 16 is asserted to be patentable over the art for at least

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the same reasons as method claim 6. Claim 16-19 are accordingly now in condition for favorable action and allowance.

Claims 1, 2, 5 and 10-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Tachibana and Greanias. These claims have been canceled.

In view of the foregoing, it is believed that this application is in condition for allowance, and such a Notice is respectfully requested.

Date: \_\_\_\_\_

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